REMARKS

No claims have been amended, added or cancelled. Claims 1-26 remain pending the in the application. Reconsideration is respectfully requested in light of the following remarks.

On p. 2 of the Office Action, the Examiner states: "Claims 21-26 have been amended to recite a tangible computer accessible medium, but are still not persuasive, because the computer readable medium (defined at Specification, page 26, [0080]), including intangible media such as signals (electrical, electromagnetic, or digital signal)." However, the current Office Action does not state a formal rejection under 35 U.S.C. § 101. Furthermore, Applicants respectfully traverse the Examiner's comments in regard to claims 21-26. Claims 21-26 were previously amended to recite a tangible computer accessible medium (see, Applicants' Amendment filed June 27, 2005). Thus, the Examiner's statements as to the description of intangible embodiments in the Specification is irrelevant since claims 21-26 have specifically been amended to exclude intangible embodiments.

Section 102(e) Rejection:

The Examiner rejected claims 1-26 under 35 U.S.C. § 102(e) as being anticipated by Everdell et al. (U.S. Publication 2002/0165961) (hereinafter "Everdell"). Applicants respectfully traverse the rejection of claims 1-26 for at least the reasons below.

Regarding claim 1, contrary to the Examiner's assertion, Everdell fails to disclose a first node of a distributed store comprising a primary state of session data configured for access by a plurality of application servers, wherein the session data comprises a plurality of attributes. Everdell's method and system provides control of network resource allocations of multiple devices. Particularly, Everdell teaches methods for providing sufficient bandwidth to the devices to prevent starvation during high-traffic conditions as well as during single or multiple device failures across the network. The

Examiner asserts that paragraphs [0009]-[0010] describe a distributed store and that paragraphs [0146] and [0156] "in which the NMS client/server connects each other, corresponds to the primary state of session, and the logical system model contains metadata defining objects, attributes corresponds to the session data comprises of attributes [*sic*]". However, in the cited paragraphs, Everdell describes a telecommunications network with a plurality of distributed processors, *none of which store a primary state of session data.* More specifically, the Examiner seemingly asserts that paragraph [0146] teaches a first node of a distributed store comprising a primary state of session data, because, in Everdell, NMS servers and clients are able to communicate. Paragraph [0146] actually discloses Everdell's security measures within the communication between an NMS server and client, i.e., verification of passwords and handles between the NMS client/server, and nowhere discloses a primary state of *session data.* Furthermore, paragraph [0156] actually describes details for Everdell's Logical System Module, i.e., the organization and method it implements. More specifically, within Everdell's Logical System Module, smaller modules contain metadata, which define the relationships between objects within the Logical System Module. The Logical System Module metadata to which the Examiner refers is irrelevant with regard to the session data. Nowhere does Everdell disclose *session* data comprising a plurality attributes, let alone a first node of a distributed store comprising a primary state of session data configured for access by a plurality of application servers.

Furthermore, Everdell does not disclose another node comprising a back-up instance of the primary state of the session data. The Examiner cites paragraph [0457] of Everdell and asserts that this paragraph discloses "in which network manager establish the second connection between client/server corresponds to the back-up instance of the primary state [*sic*]". However, the cited paragraph actually describes the method by which the network system can manage connections across multiple clients and servers. In Everdell's system, the network manager may connect to multiple NMS servers in order to provide a service for a specific network device. In other words, the network manager is capable in providing services across multiple servers, networks, and devices. This teaching has absolutely no relevance whatsoever with regard to a back-up instance of

primary state of session data. Nowhere does Everdell teach a back-up instance of primary state of session data.

Furthermore, nowhere does Everdell disclose comparing the primary state to a benchmark of the primary state to generate of a subset of attributes of the session data that have been modified from the primary state. The Examiner asserts that in paragraph [0916] "the Dynamic Threshold table corresponds to the benchmark". In fact, contrary to the Examiner's assertion, the Dynamic Threshold table the Examiner cites in [0916] provides a means for comparing current network allocations and the allocations provided by a table of rules for maintaining optimized thresholds. For example, the processes within network devices may include attributes corresponding to network device resources that a network manager may wish to check against particular threshold expressions, i.e., rules. This portion of Everdell is completely irrelevant to Applicants' claim 1. The Examiner further asserts that paragraph [0933] discloses comparing the primary state to a benchmark. The description provided in [0933] actually teaches the conditions by which the system assigns the threshold data to a threshold group and nowhere mentions *generation* of a *subset* of attributes of the *session data* that have been modified from the primary state. Thus, Everdell clearly does not disclose comparing the primary state to a benchmark of the primary state to generate of a subset of attributes of the session data that have been modified from the primary state.

In further regard to claim 1, Everdell does not disclose a system to synchronize the back-up instance of the primary state with the primary state using the subset of the attributes of the session data. The Examiner cites paragraphs [0322] and [0842] of Everdell. However, paragraph [0322] describes the communication of a client with a second server in the case of primary server failure and does not teach *synchronizing* using the *subset of the attributes* of the *session data*. Furthermore, paragraph [0842] teaches an update of available resources between the network device and the server and between the client and the server. Specifically, paragraph [0842] states: "the NMS server sends the NMS client a *full set* of updated proxies to ensure that the NMS client is fully synchronized with the network device" (emphasis added). Everdell is clearly discussing

updating the proxies for managed objects (see, Everdell, paragraph [0833]) and is not discussing anything about synchronizing primary states of session data. Proxies for managed objects have nothing to do with session data, and sending a full set of proxies is completely irrelevant to synchronizing a backup instance of a primary state with the primary state of session data using a subset of attributes of the session data. Everdell clearly does not teach synchronizing using the *subset of the attributes of the session data.*

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The **identical** invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As discussed above, Everdell fails to disclose a system configured with a first node of a distributed store comprising a primary state of session data configured for access by a plurality of application servers, wherein the session data comprises a plurality of attributes. Furthermore Everdell completely fails to mention a back-up instance of the primary state of the session data. Everdell also fails to generate of a subset of attributes of the session data that have been modified from the primary state and synchronize the back-up instance of the primary state with the primary state using the subset of the attributes of the session data. Therefore, Everdell clearly cannot be said to anticipate claim 1.

For at least the reasons presented above, the rejection of claim 1 is not supported by the prior art and removal thereof is respectfully requested. Similar remarks as those above regarding claim 1 also apply to claims 15 and 21.

Regarding claim 7, Everdell does not disclose a system configured to generate a set of the plurality of attributes that are mutable attributes for use in synchronizing. The Examiner cites paragraphs [0202], [0489], and [0552]. Paragraph [0202] states in part:

> "the NMS client validates the parameters as far as possible within the client's view of the device and passes (step 880, FIG. 3g) this run

time/instance configuration data, including all configured SONET path parameters, to the NMS server."

Paragraph [0202] continues to disclose the validation procedure of the fully transferred configuration data set, but does not describe a system to generate a *set of the plurality of attributes* that are *mutable attributes* for use in *synchronizing*. Paragraphs [0489] and [0552] describe hot configuration changes and methods for system wide changes (e.g. implementing an evaluation system, and upon success, triggering the system wide change) respectively. Everdell fails to disclose, either at the cited passages or elsewhere, a system to generate a set of the plurality of the attributes that are mutable attributes for use in synchronizing. The Examiner does not provide further arguments specifically regarding the rejection of claim 7 and instead states that claim 7 has similar limitations as claim 1. However, because claim 7 recites different limitations than claim 1 as well as the reasons mentioned above, the Examiner has not provided a proper rejection of claim 7.

For at least the reasons presented above, the rejection of claim 7 is not supported by the prior art and removal thereof is respectfully requested.

Regarding claim 11, Everdell does not disclose determining a set of the attributes of the session data that differ between the primary state and the other instance of the primary state and synchronizing the other instance of the primary state with the primary state. The Examiner cites paragraph [0460]. The cited portion teaches the provisioning services within the network, i.e., a network manager may interactively provision services by issuing execute commands or may provision services non-interactively through batch templates. Nowhere does Everdell mention a *means for determining a set of the attributes of the session data that differ between the primary state* and the other instance of the primary state. The Examiner does not provide further arguments specifically regarding the rejection of claim 11 and instead states that claim 11 has similar limitations as claim 1. However, because claim 11 recites different limitations than claim 1 as well as the reasons mentioned above, the Examiner has not provided a proper rejection of claim 11.

For at least the reasons presented above, the rejection of claim 11 is not supported by the prior art and removal thereof is respectfully requested.

Applicants also assert that numerous other ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

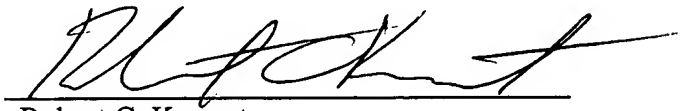
Applicants submit the application is in condition for allowance, and prompt notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicants hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-12100/RCK.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

Respectfully submitted,



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